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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,589	12/01/2000	Erik Krimm	225/49427	1848

7590 02/10/2003  
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EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/726,589

Applicant(s)

KRIMM ET AL.

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-19, 22, 23 and 26-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 20, 21, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 22 and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species (the parts being soldered or welded together), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 15.

This application contains claims 22 and 23 are drawn to an invention nonelected with traverse in Paper No. 15. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plastic borders, the undercuts and the cutouts must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because reference 10 points to the plastic cover and not a hole edge. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "undercuts or cutouts" and "plastic borders which have been clicked into place or have been secured in the undercuts or cutouts of the middle stamped part".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in-

Art Unit: 3679

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-4, 20, 21, 24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Sander, 6,182,527.

Regarding claim 1, Sander discloses in Figures 1, 3 and 4 a plate functional component comprising at least three stamped parts 11, 12, 13. One of the stamped parts 11, 12, 13 is a middle stamped part 11. The stamped parts 11, 12, 13 lie flat against one another. The stamped parts 11, 12, 13 are unreleasably connected to one another and each of the stamped parts 11, 12, 13 have at least two engagement holes 2, 7. The engagement holes 2, 7 are arranged congruently with respect to one another. At least one of the engagement holes 2, 7 in the middle stamped part 11, has a hole wall 16 provided with an elastomeric plastic cover 24.

Regarding claim 2, Figure 4 discloses the elastomeric plastic cover 24 is formed from plastic borders 18, 25. The plastic borders 18, 25 are secured in undercuts 26 or cutouts of the middle stamped part 11 and surround a hole edge A.

Regarding claims 3 and 21, Sander discloses the stamped parts **11-13** are riveted. Figure 3 shows the parts **11-13** riveted by head **22** (col. 4, lines 57-60).

Regarding claim 4, the plastic cover **24** is around a hole edge **A**. Applicant is reminded that the method of forming the plastic cover by injection-moulding plastic is not germane to the issue of patentability of the functional component itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113.

Regarding claim 8, Sander discloses spacer lugs **A2** (see marked-up attachment of Fig. 3 provided on the last Office action) on inner sides of the outer stamped parts **12,13** facing towards the middle stamped part **11**. The spacer lugs **22** are formed from a material that is harder than the injection-moulded plastic (claim 5).

Regarding claim 20, Sander discloses a gate plate comprising at least three stamped metal sheet parts **11-13** and an elastomeric plastic cover **24**. The parts **11-13** are stacked together in sandwich form. Each of the parts **11-13** includes at least one engagement hole **7** aligned with engagement holes **7** in the other parts **11-13**. The cover **24** is provided for surrounding at least a portion of the engagement hole **7** in a middle one of the parts **11-13**.

Regarding claim 24, the cover **24** is clicked into place on the metal part **11**.

Regarding claim 25 the cover **24** is injection-moulded onto the middle part **11** (col. 5, line 48).

### ***Allowable Subject Matter***

Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 5, the prior art of record does not disclose or suggest a functional component comprising connecting webs leading from the plastic cover; and,

regarding claims 6 and 7, these claims depend from claim 5.

### ***Response to Arguments***

Applicant's arguments filed 12/30/02 have been fully considered but they are not persuasive.

Applicant has argued that Sander, 6,182,527 does not disclose or suggest the three parts being stamped. Applicant is reminded that the method of forming the parts

by stamping is not germane to the issue of patentability of the functional component itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113. Applicant has commented that Sander does not recognize the invention from the production technology. If applicant strongly believes that a method of producing three or more stamped parts has not been invented, applicant is urged to apply for a process of producing three stamped parts.

Applicant has argued that Sander does not disclose the plastic cover being formed from plastic borders which have been clicked into place or have been secured in undercuts or cutouts of the middle stamped part and surround a hole edge; the recess does not provide for the plastic borders to be secured to the middle stamped part; and the plastic is not preformed. Again, applicant is reminded that the method of forming the plastic cover by plastic borders and preformed is not germane to the issue of patentability of the functional component itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113. Furthermore, applicant is reminded that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Therefore, the undercut (recess or cutouts) can provide the plastic cover to be secured to the middle stamped part.



Applicant has argued that Sander does not disclose the parts being riveted together and that the rivets are not riveting. This is not found persuasive because Sander discloses the parts being riveted (col. 4, lines 57-60). The rivet head 22 implies riveting and therefore, the parts are riveted together.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00.

Art Unit: 3679

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**

E.G.

February 4, 2003